

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ROBERT FIREMAN and ANN RAIDER,

Plaintiffs,

v.

NEWS AMERICA MARKETING IN-STORE,  
INC.,

Defendant.

Civil Action No. 05-11740-MLW

**ANSWER**

News America Marketing In-Store, Inc. ("News America") responds to the separately-numbered allegations of the Complaint as follows:

1. News America lacks information sufficient to admit or deny the allegations of paragraph 1.
2. News America lacks information sufficient to admit or deny the allegations of paragraph 2.
3. Admitted.
4. News America lacks information sufficient to admit or deny the allegations of paragraph 4.
5. News America lacks information sufficient to admit or deny the allegations of paragraph 5.
6. News America lacks information sufficient to admit or deny the allegations of paragraph 6.
7. News America lacks information sufficient to admit or deny the allegations of paragraph 7.

8. Denied.

9. Denied.

10. Denied.

11. With respect to the allegations of paragraph 11, News America states that the Agreement speaks for itself.

12. Denied, except News America states that the Agreement speaks for itself.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. Denied.

18. News America incorporates herein by reference its responses to paragraphs 1 through 17.

19. With respect to the allegations of paragraph 19, News America states that the Agreement speaks for itself.

20. With respect to the allegations of paragraph 20, News America states that the Agreement speaks for itself.

21. Denied.

22. Denied.

23. Denied.

24. News America incorporates herein by reference its responses to paragraphs 1 through 23.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. News America incorporates herein by reference its responses to paragraphs 1 through 28.

30. With respect to the allegations of paragraph 30, News America states that the Agreement speaks for itself.

31. Denied.

32. Denied.

#### **FIRST AFFIRMATIVE DEFENSE**

The Complaint, and each Count thereof, fails to state a claim which upon relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiffs have waived claims alleged in the Complaint.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiffs are estopped to assert the claims alleged in the Complaint

#### **FOURTH AFFIRMATIVE DEFENSE**

The claims alleged in the Complaint are barred by laches.

#### **FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs have released the claims alleged in the Complaint.

#### **SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs lack a right to trial by jury on one or more of the claims alleged in the Complaint.

#### **SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred by their unclean hands or by the doctrine of *in pari delicto*.

WHEREFORE, News America respectfully requests that:

- (A) the Complaint, and each Count thereof, be dismissed with prejudice;
- (B) that the Court award News America its costs, including reasonable attorneys' fees; and
- (C) that the Court grant News America such other relief as is just and proper.

NEWS AMERICA MARKETING IN-STORE,  
INC.

By its attorneys,

/s/ Gordon P. Katz

Gordon P. Katz (BBO# 261080)  
Tara J. Myslinski (BBO #644936)  
HOLLAND & KNIGHT LLP  
10 St. James Avenue  
Boston, MA 02116  
(617) 523-2700

Dated: September 26, 2005  
Boston, Massachusetts